

2004 - State Affairs House Pending Rule (Yellow)

ADMINISTRATIVE RULES REVIEW

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Legislative Session 2004

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IDAPA 11 - IDAHO STATE POLICE

11.04.01 - RULES GOVERNING HORSE RACING

DOCKET NO. 11-0401-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2506, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 99 through 102.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Eugene O. "Jack" Baker, at (208) 884-7080.

DATED this 22nd day of October, 2003.

Eugene O. "Jack" Baker
Executive Director
Idaho State Racing Commission
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

IDAPA 11, TITLE 04, CHAPTER 01

RULES GOVERNING HORSE RACING

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 2, 2003, pages 99 through 102.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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IDAPA 11 - IDAHO STATE POLICE IDAHO STATE RACING COMMISSION

11.04.01 - RULES GOVERNING HORSE RACING

DOCKET NO. 11-0401-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 17, 2003.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to 54-2506, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose to the proposed rulemaking:

Adopt Standard Time Trial rules of American Quarter Horse Association.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Adopting the rules brings the Idaho State Racing Commission in line with the national industry in regards to the time trials for racing.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted from April 15, 2003 through June 17, 2003.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Eugene O. "Jack" Baker, telephone (208) 884-7080.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 13th day of August, 2003.

Eugene O. "Jack" Baker
Executive Director
Idaho State Racing Commission
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0401-0301

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130. STAKE RACES.

01. Applications. Stake race nomination applications must be submitted to the Racing Commission for approval. Rules adopted by the Commission supersede conditions of the race. (7-1-93)

02. Sold. If a nominee is sold, the entry goes with the foal and fees may be kept up by the buyer. There will be no refunds. If a nominee dies, the entry fees remain in the race. (7-1-93)

03. Weights. Weights, or the method of selection of weights, shall be listed on the nomination application. (7-1-93)

04. Disqualified. If any part of an entry is disqualified, all of the entry may be disqualified. (7-1-93)

05. Trainer. Separately owned horses trained by the same Trainer may be uncoupled in stake races for the purpose of pari-mutuel wagering; horses owned wholly or partly by one (1) racing interest must be coupled as an entry in the wagering. (7-1-93)

06. Licensee. A licensee reserves the right, with the consent of the Racing Commission, to cancel or postpone a race. (7-1-93)

07. No Liability. No liability will be incurred beyond the refund of nomination and starting fees if a stall gate fails to open and money wagered on a horse is refunded to the public (except if the horse is part of Entry or Field) such horse will be declared a nonstarter. (7-1-93)

08. Purse. Stake nomination applications must indicate the purse added by the track, if any. (7-1-93)

09. Fees. Nomination and entry fees must be deposited in a savings account approved by the Commission. (7-1-93)

10. List. A list of all horse remaining eligible shall be sent to the Commission and each nominator to the stake no later than fourteen (14) days after the closing of each payment. (7-1-93)

11. Interest. Accrued interest shall be added to the stake. (7-1-93)

12. No Deductions. No deductions shall be withheld from the purse unless so stated on the nomination application. (7-1-93)

13. Deposits. All monies and accrued interest shall be deposited with the Horseman's Bookkeeper prior to the day of entry. (7-1-93)

14. Awards. Breeders awards shall be paid on Association purse money. (7-1-93)

15. Race Off. If a stake race is declared off, all subscriptions and fees and accrued interest paid in connection with that race shall be refunded. Incurred administration expense may be deducted, subject to review by the Commission. (7-1-93)

16. Time Trials. ~~Each trial shall consist of not more than the number of horses specified on the conditions. Horses shall be selected from the trials to participate in one (1) or more divisions. These horses shall be selected on a time basis with the exception of stake races, which specify the final gate to be selected on best order of finish in trials. Times of horses in separate trials will be determined only to the limitation of the electric time one-hundredth of a second. Horses in the same trial heat will not be limited to the one-hundredth of a second time factor if they can be separated further by the Board of Stewards. If a tie exists, the entities involved shall draw lots to determine which shall participate in the finals. If a second division is to be run, the horses involved in the tie and the next best order of finish shall determine the horses which shall participate in the second division, etc. No adjustment will be made in recorded time of trials for head wind, tail wind, off track, etc. Should a mechanical failure occur within the electric timer on any time trial, finalists will then be selected by official hand timing with stop watches~~

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IDAHO STATE POLICE Rules Governing Horse Racing

Docket No. 11-0401-0301 Temporary and Proposed Rulemaking

~~operated by three (3) official, reputable and disinterested persons. If in the trials should a horse be disqualified, it will be given the time of the horse it is immediately place behind, plus one hundredth of one (1) second. The decision of the Stewards in all matters shall be final and entries are accepted only on the condition that those persons nominating and/or starting a horse in the trials and/or stake agree to abide by their decision. (7-1-93)(5-20-03)T~~

a. Except in cases where the starting gate physically restricts the number of horses starting, each time trial shall consist of no more than ten (10) horses. (5-20-03)T

b. The time trials shall be raced under the same conditions as the finals. If the time trials are conducted on the same day, the horses with the ten (10) fastest times shall qualify to participate in the finals. If the time trials are conducted on two (2) days, the horses with the five (5) fastest times on the first day and the horses with the five (5) fastest times on the second day shall qualify to participate in the finals. When time trials are conducted on two (2) days, the racing secretary shall split owners with more than one (1) entry into separate days. (5-20-03)T

c. If the association's starting gate has less than ten (10) stalls, then the maximum number of qualifiers will correspond to the maximum number of starting gate post positions. (5-20-03)T

d. If only eleven (11) or twelve (12) horses are entered to run in time trials from a gate with twelve (12) or more stalls, the association may choose to run finals only. If eleven (11) or twelve (12) horses participate in the finals, only the first ten (10) finishers will receive purse money. (5-20-03)T

e. In the time trials, horses shall qualify on the basis of time and order of finish. The times of the horses in the time trial will be determined to the limit of the timer. The only exception is when two (2) or more horses have the same time in the same trial heat. Then the order of finish shall also determine the preference in qualifying for the finals. Should two (2) or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying position(s), then a draw by public lot shall be conducted as directed by the stewards. Qualifying times in separate trials shall not be determined beyond the limit of the timer by comparing and/or enlarging photo-finish images. (5-20-03)T

f. Except in the case of disqualification, under no circumstances shall a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial. (5-20-03)T

g. Should a horse be disqualified for interference during the running of a time trial, it shall receive the time of the horse it is immediately placed behind plus one hundredth (.01) of a second, or the maximum accuracy of the electronic timing device. No adjustments will be made in the times recorded in the time trials to account for head-wind, tail-wind, off-track, etc. If a horse is disqualified for interference with another horse causing loss of rider or the horse not to finish the race, the disqualified horse shall be given no time plus one hundredth (.01) of a second, or the maximum accuracy of the electronic timing device. (5-20-03)T

h. Should a malfunction occur with electronic timer on any time trial, finalists from that time trial will then be determined by official hand times operated by three (3) official and disinterested persons. The average of the three (3) hand times will be utilized for the winning time, unless one (1) of the hand times is clearly incorrect. In such cases, the average of the two (2) accurate hand times will be utilized for the winning time. Other horses shall be given times according to the order and margins of finish with the aid of the photo-finish, if available. (5-20-03)T

i. When there is a malfunction of the timer in some time trials, but the timer operates correctly in other time trials, the accurate electronic times shall not be discarded, nor shall the average of the hand times be used for all time trials. (5-20-03)T

j. If the accuracy of the electronic timer and/or the average of the hand times are questioned, the video of a time trial may be used by the stewards to estimate the winning time by counting the number of video frames in the race from the moment the starting gate stall doors are fully open parallel to the racing track. When the timer malfunctions and there are no hand times, the stewards may select qualifiers based on the video. (5-20-03)T

k. Should there be a malfunction of the starting gate, and one (1) or more stall doors not open or open after the exact moment when the starter dispatches the field, the stewards may declare the horses with malfunctioning stall doors non-starters, or may allow any horse whose stall door opened late, but still ran a time fast enough to

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qualify to be declared a starter for qualifying purposes. If a horse breaks through the stall door, or the stall door opens prior to the exact moment the starter purposely dispatches the field, the horse must be declared a non-starter, and all entry fees refunded. If one (1) or more, but not all stall doors, open at the exact moment the starter purposely dispatches the field, these horses should be considered starters for qualifying purposes, and placed according to their electronic time. If the electronic timer malfunctions in this instance, the average of the hand times, or if not available, the video may be utilized for the horses declared starters. (5-20-03)T

l. If a horse should be scratched from the time trials, the horse's owner shall not be eligible for a refund of the fees paid and shall not be allowed to enter the final. If a horse that qualified for the final should be unable to enter due to racing soundness, or scratched for any reason other than a positive drug test or a rule violation, the horse shall be deemed to have earned and the owner will receive, last place purse money. If more than one (1) horse is scratched from the final, then those purse monies shall be added together and divided equally among those owners. (5-20-03)T

m. If a qualifier for a final or consolation is disqualified for ineligibility or a rule violation after the time trials are declared official, but prior to entry for the final or consolation, the non-qualifier with the next fastest time shall replace the disqualified horse. If a qualifier is disqualified after entry for the final or consolation for ineligibility or a rule violation in the time trials, the purse shall be redistributed, and the non-qualifier with the next fastest time shall receive last place purse money. (5-20-03)T

17. Selection. There shall be no more than four (4) also eligibles selected when one (1) division of a stake is to be run. Horses cannot be advanced after the regular advertised scratch time. (7-1-93)

18. Also Eligible List. When two (2) or more divisions of the same stake are to be run, there will be no "also eligible list" in any of the two (2) or more divisions and if a horse should scratch, the owner will receive last place purse money in that particular division for which the horse qualified. If more than one (1) horse should scratch out of the same division, then those monies shall be added together and divided equally among those scratching out of that division. (7-1-93)

19. Number Of Starters. The race is limited to the number of starters as specified in the conditions. However, in the event more than the specified number of entries are received, winners of a sweepstakes have first preference, winners have second preference, stake placed maidens have third preference, other maidens have fourth preference, non-starters have fifth preference. (7-1-93)

20. Preference. An owner entering two (2) or more maidens must declare a preference for the draw for a post position in the gate. (7-1-93)

21. Fee. Any horses drawing outside the gate will have the entry fee refunded. (7-1-93)

22. Assistant Starter. In all stake races and trials there shall be at least one (1) assistant starter for each horse. (7-1-93)

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IDAPA 11 - IDAHO STATE POLICE

11.04.02 - RULES GOVERNING SIMULCASTING

DOCKET NO. 11-0402-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2506, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 103 through 117.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Eugene O. "Jack" Baker, at (208) 884-7080.

DATED this 22nd day of October, 2003.

Eugene O. "Jack" Baker
Executive Director
Idaho State Racing Commission
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

IDAPA 11, TITLE 04, CHAPTER 02

RULES GOVERNING SIMULCASTING

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 2, 2003, pages 103 through 117.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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IDAPA 11 - IDAHO STATE POLICE IDAHO STATE RACING COMMISSION

11.04.02 - RULES GOVERNING SIMULCASTING

DOCKET NO. 11-0402-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 4, 2003.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to 54-2506, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose to the proposed rulemaking:

Idaho bettors are currently setting up telephone accounts in which to place pari-mutuel wagers in surrounding states. This rule change will require any operator engaging in account wagering to pay a source market fee to the Idaho State Racing Commission for disbursement to the racing industry. Also adds required sections to the rule.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The commission will receive a percentage of the account wagering handle to be used for purses, owner/breeder awards and promotion which confers a benefit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted from April 15, 2003 through June 17, 2003.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Eugene O. "Jack" Baker, telephone (208) 884-7080.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 13th day of August, 2003.

Eugene O. "Jack" Baker
Executive Director
Idaho State Racing Commission
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0402-0301

003. ~~(RESERVED)~~ ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (4-4-03)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference in this chapter of rules. (4-4-03)T

005. MAILING ADDRESS AND OFFICE HOURS.

The mailing address of the Idaho State Racing Commission is P.O. Box 700, Meridian, Idaho 83680-0700. Office hours are Monday through Friday, 8 a.m. to 5 p.m. The street address for the State Racing Commission Office is 700 S. Stratford, Meridian, Idaho 83642. (4-4-03)T

006. PUBLIC RECORDS AVAILABILITY.

Public Records are available during normal working hours for inspection and copying at the Idaho State Racing Commission Office, 700 South Stratford Drive, Meridian, ID 83680-0700. (4-4-03)T

0057. GENERAL JURISDICTION.

Simulcasting of Races within the State. The Idaho State Racing Commission shall have general jurisdiction over the simulcasting of horse and greyhound races within the state, and the Commission may issue rules in accordance with the provisions of this article as provided for in Idaho Statutes. (4-5-00)

0068. -- 0409. (RESERVED).

00410. DEFINITIONS.

01. Account. An account for advanced deposit wagering with a specific identifiable record of credits, debits, deposits, wagers, and withdrawals established by an account holder and managed by the race meet licensee or agent. (4-4-03)T

02. Account Holder. A natural person who successfully completed an application and for whom the race meet licensee has opened an account. (4-4-03)T

03. Advance Deposit Wagering. A form of pari-mutuel wagering in which a natural person may deposit money in an account with a race meet licensee and then use the current balance to pay for pari-mutuel wagering on horse racing only conducted by the race meet licensee. (4-4-03)T

04. Advance Deposit Wagering Facility. An actual location, equipment, and staff of a race meet licensee and/or agents involved in the management servicing and operation of advance deposit wagering for the race meet licensee. (4-4-03)T

05. Agent Of The Race Meet Licensee. Those persons or entities with the authority to accept deposits and wagers on behalf of the race meet licensee, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts. (4-4-03)T

06. Applicant. A natural person who has submitted an application to establish an account with a race meet licensee. (4-4-03)T

07. Application. The form or forms and other required submissions received from an applicant with the intent of opening an account. (4-4-03)T

048. Association Which Accepts The Wager. The guest association where the bettor contributes his money to the pari-mutuel pool and receives a pari-mutuel ticket. (7-1-93)

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029. Authorized User. A person authorized by the Commission to receive, to decode and use for legal purposes the encrypted simulcast signal of pari-mutuel events. (7-1-93)

0310. Combined Pari-Mutuel Pools (Combined Pools). The pari-mutuel wagers at one (1) or more guest associations being contributed into the pari-mutuel pools of a host association of the combined pari-mutuel pools of simulcast facilities within the state of Idaho. (7-1-93)

0411. Commission. The Idaho State Racing Commission. (7-1-93)

12. Confidential Information. The following information is confidential: (4-4-03)T

a. The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account; (4-4-03)T

b. The amount of money wagered by a particular account holder on any race or series of races; (4-4-03)T

c. The account number and secure personal identification code of a particular account holder; (4-4-03)T

d. The identities of particular entries on which the account holder is wagering or has wagered; (4-4-03)T

e. Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the advance deposit wagering facility and race meet licensee that would identify the account holder to anyone other than the commission, the advance deposit wagering facility or the race meet licensee. (4-4-03)T

13. Credits. All positive inflow of money to an account. (4-4-03)T

14. Debits. All negative outflow of money from an account. (4-4-03)T

015. Decoder. A device and/or means to convert encrypted audio-visual signals and/or data into a form recognizable as the original content of the signals. (7-1-93)

16. Deposit. A payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account. (4-4-03)T

0617. Downlink. Receiving antenna coupled with an audio-visual signal receiver compatible with and capable of receiving simultaneous audio-visual signals and/or data emanating from a host association, and includes the electronic transfer of received signals from the receiving antenna to TV monitors within the satellite facility. (7-1-93)

0718. Enclosure, Enclosure-Public. Includes all enclosed areas of the simulcast wagering facility. (7-1-93)

0819. Encryption (Encrypted Or Encoded). The scrambling or other manipulation of the audio-visual signals to mask the original content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal. (7-1-93)

20. Foreign Jurisdiction. A jurisdiction of a foreign country or political subdivision thereof. (4-4-03)T

0921. Guest, Guest Association Or Simulcast Operator. An association simulcast licensee authorized by the Commission to offer, sell, cash, redeem or exchange pari-mutuel tickets on races being run at a host association. (7-1-93)

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IDAHO STATE POLICE Rules Governing Simulcasting

Docket No. 11-0402-0301 Temporary and Proposed Rulemaking

- 22. Handle Or Gross Handle.** Total amount of money bet on a race less refunds and cancels. (4-4-03)T
- ~~4023.~~ Host Or Host Association.** The racing association conducting a licensed horse racing meeting when it is authorized by the Commission to simulcast its racing program. It may also be considered the sending track which means any track from which simulcast signals originate. (7-1-93)
- ~~424.~~ Interstate Simulcast Wagering.** Wagering conducted by a betting system outside the state of Idaho on the results of one (1) or more races being run at an Idaho host association or wagering conducted by a betting system within the state of Idaho on the results of one (1) or more races being run at a host association outside the state of Idaho. (7-1-93)
- ~~425.~~ Intrastate Simulcasting Wagering.** Pari-mutuel wagering at an Idaho guest association on Idaho horse racing events run at an Idaho host association. (7-1-93)
- ~~43. Out Of State Wagering.~~** ~~Acceptance of wagers by a host or guest association in Idaho on the results of races run at a race meeting outside the state of Idaho. Nothing in these rules shall be deemed to include acceptance of wagers by telephone, telegraph, radio, or in any manner other than in cash or other authorized method at a pari-mutuel machine operated by one authorized pursuant to Idaho law and these rules.~~ (7-1-93)
- 26. Multi-Jurisdictional Simulcasting And Interactive Wagering Totalizator Hub.** A multi-jurisdictional simulcasting and interactive wagering totalizator hub is a business that, through a qualified subscriber based service, conducts pari-mutuel wagering on the races that it simulcasts and other races that it carries in its wagering menu. The term "hub" will be used in these rules to refer to the multi-jurisdictional simulcasting and interactive wagering totalizator hub. (4-4-03)T
- 27. Natural Person.** Any person at least eighteen (18) years of age, but does not include any corporation, partnership, limited liability company, trust, or estate. (4-4-03)T
- 28. Principal Residence Address.** That place where the natural person submitting an application for an account resides at least fifty percent (50%) of the time during the calendar year. (4-4-03)T
- 29. Proper Identification.** A form of identification accepted in the normal course of business to establish that the person making a transaction is the account holder. (4-4-03)T
- 30. Qualified Subscriber Based Service.** The terms "qualified subscriber based service" and "closed-loop subscriber based system" shall mean any information service or system that uses: (4-4-03)T
- a. A device or combination of devices;** (4-4-03)T
 - i. Authorized and operated exclusively for placing, receiving, or otherwise making a wager; and** (4-4-03)T
 - ii. By which a person must subscribe to in order to be able to place, receive or otherwise make a bet or wager.** (4-4-03)T
 - b. An effective customer verification and age verification system; and** (4-4-03)T
 - c. Appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is a minor.** (4-4-03)T
- 31. Race Meet Licensee.** Any person or entity holding a currently valid license to engage in racing or related regulated activities. (4-4-03)T
- ~~432.~~ Satellite Facility, Intrastate Wagering Facility, Extended Wagering Facility.** The physical premises, structure and equipment utilized by a guest association for the conduct of pari-mutuel wagering on horse racing events being run elsewhere. Such facility must be a part of the license granted to the Guest or Host

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Association. (7-1-93)

~~4533.~~ **Satellite Transponder, Transponder.** Leased space segment time of an earth-orbit communication satellite. (7-1-93)

~~34.~~ **Secure Personal Identification Code.** An alpha-numeric character code chosen by an account holder as a means by which the race meet licensee may verify a wager or account transaction as authorized by the account holder. (4-4-03)T

~~4635.~~ **Simulcast.** The simultaneous telecast of audio and visual signals of running horse races and other permitted pari-mutuel events conducted for the purposes of pari-mutuel wagering. (7-1-93)

~~4736.~~ **Simulcast Operator.** A person licensed by the Commission to operate a simulcast wagering system as is provided for by these rules. (7-1-98)

~~4837.~~ **Simulcast Service Supplier.** A person engaged in providing service, supplies or equipment necessary to the operation of intrastate, interstate or out-of-state simulcast wagering for use by a host association, guest association, simulcast operator, or authorized user, including pari-mutuel wagering terminals, uplink, downlink, television receivers and related equipment; but does not include persons authorized by the Federal Communications Commission to provide telephone service or space segment time on satellite transponders. (7-1-93)

~~38.~~ **Source Market Fee.** That part of a wager, made outside of the state by an Idaho resident, that is returned to the state of Idaho. (4-4-03)T

~~439.~~ **Uplink.** An earth station broadcasting facility, whether mobile or fixed, which is used to transmit audio-visual signals and/or data on FCC-controlled frequencies, and includes any electronic transfer of the audio-visual signals from within the racing enclosure to the location of the transmitter at the uplink. (7-1-93)

~~40.~~ **Withdrawal.** A payment of money from an account by the race meet licensee to the account holder when properly requested by the account holder. (4-4-03)T

~~41.~~ **Withdrawal Slip.** A form provided by the race meet licensee for use by an account holder in withdrawing funds from an account. (4-4-03)T

(BREAK IN CONTINUITY OF SECTIONS)

030. LICENSES FOR SIMULCAST OPERATORS.

01. License. Every person acting as a simulcast operator within Idaho shall procure a license from the Commission and no person shall act in the capacity of a simulcast operator without a valid license. Such license may be renewed annually unless the application is denied for any cause justifying suspension or revocation of license for violation of these rules. (7-1-93)

a. Submits a financial statement as required by the Idaho State Racing Commission. (7-1-93)

b. Post with the Commission a surety in the amount and in such form as the Commission may require, sufficient to ensure payment of distributable amounts of pari-mutuel pools pursuant to statute, operational costs, salaries, wages, benefits, and related financial obligations. (7-1-93)

c. Demonstrates experience and/or adequate knowledge of the conduct of simulcast wagering and/or pari-mutuel wagering operations. (7-1-93)

d. The association intending to conduct wagering on an out-of-state race files with the Commission a completed simulcast application. The application will be provided and approved by the Commission. At a minimum

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the application will require the applicant to provide the following information: (4-4-03)T

- i. The number of live races ran in the current year: (4-4-03)T
- ii. The number of live races ran in the preceding year: (4-4-03)T
- iii. Documentation that the required bond has been posted: (4-4-03)T
- iv. Documentation that the appropriate public liability insurance has been obtained: (4-4-03)T
- v. A signed approval letter from the appropriate county commissioners: (4-4-03)T
- vi. A signed contract from a local horsemen's group. The horsemen's group must be one which meets the definition of a horsemen's group as delineated in Section 54-2502, Idaho Code. The contract must not be in conflict with any of the provisions of Sections 3001 through 3007 of Title 15 of the United States Code or any other federal laws: (4-4-03)T
- vii. A statement setting forth the date and time it intends to commence accepting wagers on out-of-state race or races; and (4-4-03)T
- viii. Any other written or oral approvals required by the Commission. (4-4-03)T

02. Granting Restrictions. (7-1-93)

a. No license as simulcast operator shall be granted to a person or entity who has failed, refused or neglected to comply with any rule, condition of license, or order of the Commission or its stewards reasonably related to its conduct as a simulcast operator, or who has engaged in any activity which is grounds for denial, suspension or revocation of license pursuant to the rules of the Commission or whose general partners, officers, directors, or employees have engaged in any unlawful activity determined to be conduct detrimental to the best interest of horseracing. (7-1-93)

b. Additionally, no license as simulcast operator shall be granted to a person or entity who has failed, refused or neglected to enter into an agreement with a Horsemen's group as defined by Section 54-2502, Idaho Code. (7-1-98)

03. No Limitation. There shall be no limitation as to the number of days a licensee may operate except as may otherwise be provided for within these rules or the Idaho Code. (7-1-93)

031. -- 034. (RESERVED).

035. DUTIES OF SIMULCAST OPERATOR.

01. General. A simulcast operator conducts and operates a pari-mutuel wagering system at one (1) or more guest associations on the results of horse races being held or conducted and simulcast from the enclosures of one or more host associations pursuant to its agreement with such guest and host association and with the approval of the Commission. (7-1-93)

02. Provisions. A simulcast operator shall provide: (7-1-93)

a. Adequate transmitting and/or receiving equipment which shall not interfere with the closed circuit TV system of the host track association for officiating any on-track patron information. All to be acceptable broadcast quality and meet applicable Federal Communication Commission and Commission rules and orders. Said equipment may include approved microwave transmitters, with appropriate safeguards, as approved by the Commission. (7-1-93)

b. Pari-mutuel terminals, pari-mutuel odds display, modems and/or switching units enabling pari-mutuel data transmissions, and data communication between the sending and the receiving associations. (7-1-98)

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c. A voice communication system between each guest association and the host association providing direct voice contact among the stewards, placing judges and/or pari-mutuel departments. (7-1-93)

03. Wagering. A simulcast operator shall conduct the pari-mutuel wagering at a guest association pursuant to the applicable Commission rules. (7-1-93)

04. Pari-Mutuel Inspector. The Commission shall appoint at least one (1) state pari-mutuel inspector to supervise the operation of the pari-mutuel of all approved simulcast facilities and may require additional pari-mutuel inspectors as is reasonably necessary for the protection of the public interest. The State Pari-Mutuel Inspector, as well as a member or members of the commission, shall: ~~(7-1-98)~~(4-4-03)T

a. Be given free access to all of the books, papers and records of the race meet licensee at any and all times. (4-4-03)T

b. Be empowered to direct the race meet licensee to adopt such rules and to install such methods and systems of operating the mutuel department as may be deemed necessary so as to ensure compliance with the law and the rules of the commission. (4-4-03)T

c. The said State Pari-Mutuel Inspector shall report to the commission any failure of the licensee to comply with the provision hereof or any violation of the law or any of the rules of the commission which may come to his attention, including in his reports, recommendations with respect to the revocation of the licenses of any employee of the race meet licensee for failure to comply with the rules of the commission, or for fraud, dishonesty, or incompetency. (4-4-03)T

05. Video Record. The simulcast operator shall, for a period of one (1) year, retain a video record of all simulcasts, in decoded form, and shall provide a copy of such record on a one-half (1/2) inch V.H.S. video cassette to the Commission, or have the ability to acquire such record from the host track upon request. (7-1-93)

06. Test Program. Not less than thirty (30) minutes prior to the commencement of transmission of the racing program for each day or night, the simulcast operator shall initiate a test program of its transmitter, encryption and decoding, and data communication to assure proper operation of the system. (7-1-93)

07. Display. The simulcast operator shall, at the request of any representative of the Commission, display a listing of all locations within this state enabled to receive the simulcast in decoded forms; and failure to do so is grounds for immediate summary suspension of license and immediate cessation of simulcasting activities. (7-1-93)

08. Security. The simulcast operator shall maintain such security controls over its uplink and communications system as directed by the Commission. (7-1-93)

09. Report. The simulcast operator shall, in conjunction with the host association or associations for which it operates pari-mutuel wagering, provide the Commission with a certified report of its pari-mutuel operations as directed by the Commission. (7-1-93)

10. Filing. Every ~~simulcast operator shall file with~~ association at the request of the Commission shall file an annual report of its live and simulcast operations, and an audited ~~financial statement~~ balance sheet and income statement prepared according to Generally Accepted Accounting Principles. ~~(7-1-93)~~(4-4-03)T

11. Compliance. The simulcast operator shall comply with Section 54-2512, Idaho Code. (7-1-93)

036. OUT-OF-STATE AND INTERSTATE WAGERING.

01. General. When conducting out-of-state and Interstate wagering, the following conditions shall also apply: (7-1-93)

~~a. A racing association, guest association, or simulcast operator may conduct a simulcast wagering~~

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~~on the results of one (1) or more races conducted by an out-of-state racing association provided:~~ (7-1-93)

~~i. The association intending to conduct wagering on an out-of-state race files with the Commission a copy of the agreement with the out-of-state association and a completed simuleast application. The application will be provided and approved by the Commission. At a minimum the application will require the applicant to provide the following information:~~ (7-1-98)

~~(1) The number of live races ran in the current year:~~ (7-1-98)

~~(2) The number of live races ran in the preceding year:~~ (7-1-98)

~~(3) Documentation that the required bond has been posted:~~ (7-1-98)

~~(4) Documentation that the appropriate public liability insurance has been obtained;~~ (7-1-98)

~~(5) A signed approval letter from the Appropriate County Commissioners;~~ (7-1-98)

~~(6) A signed Contract from a local horsemen's group. The horsemen's group must be one which meets the definition of a horsemen's group as delineated in Section 54-2502, Idaho Code. The contract must not be in conflict with any of the provisions of Sections 3001 through 3007, of Title 15 of the United States Code or any other federal laws;~~ (7-1-98)

~~(7) A statement setting forth the date and time it intends to commence accepting wagers on out-of-state race or races; and~~ (7-1-98)

~~(8) Any other written or oral approvals required by the Commission:~~ (7-1-98)

#02. Commission Approval Of Methods. The Commission approves the methods by which the out-of-state association intends to transmit the simulcast of its race or races and the restrictions, if any, placed on the use of such simulcast, and the methods to be used to assure a separate voice communication system between its steward and the stewards or placing judges at the track where the race or races are held. (7-1-93)(4-4-03)T

~~ba.~~ A racing association may authorize use of its simulcast for interstate wagering by out-of-state betting systems provided: (7-1-93)

~~fb.~~ The association files with the Commission a copy of the agreement with the out-of-state betting system which sets forth the payment to the association for use of its simulcast, and of any agreements required by Chapter 57, including Section 3001, of Title 15 of the United States Code. (7-1-93)

023. Permitted. Wagering shall be permitted only on races conducted at approved locations at pari-mutuel tracks governed by a state racing commission, racing board or other governmental agency. (7-1-93)

034. Interruption. If a simulcasting facility has an interruption in its audio-visual signal, the race may be deemed no contest at the discretion of the assigned steward and all wagers at the facility in such instances shall be refunded. (7-1-93)

045. Results. All wagers are made on the official results of the hosting track. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

042. AUTHORIZATION FOR ADVANCED DEPOSIT WAGERING.

01. Authorization To Conduct Advanced Deposit Wagering. A race meet licensee who is the holder of or applicant for a license issued under Section 011 of these rules, may request authorization from the commission

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to conduct advanced deposit wagering in accordance with Section 54-2512(5), Idaho Code, and these rules. As part of the request, the race meet licensee shall submit a detailed plan of how its proposed advance deposit wagering system would operate, the commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system's operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request. (4-4-03)T

02. Investigations Or Inspections. The commission may conduct investigations or inspections or request additional information from the race meet licensee or applicant for a license as it deems appropriate in determining whether to allow the race meet licensee to conduct advance deposit wagering. (4-4-03)T

03. Establish And Manage Advance Deposit Wagering Center. The race meet licensee or the agent of the race meet licensee shall establish and manage an advance deposit wagering center. (4-4-03)T

04. Out Of State Providers. Any advance deposit wagering conducted by a person with a provider outside of the state by telephone or other electronic means shall be illegal unless that provider is licensed by the Idaho state racing commission and provides a source market fee of not less than ten percent (10%) of the handle forwarded monthly to the commission. (4-4-03)T

043. ESTABLISHING AN ACCOUNT.

01. Establishing An Account. An established account is necessary to place advance deposit wagers. An account may be established at either an advance deposit wagering center or by mail to a race meet licensee. (4-4-03)T

a. For establishing the account with an advance deposit wagering center an application form must be signed or otherwise authorized in a manner acceptable to the commission and include the applicant's: (4-4-03)T

- i.** Full legal name; (4-4-03)T
- ii.** Principal residence address; (4-4-03)T
- iii.** Telephone number; (4-4-03)T
- iv.** Social security number; (4-4-03)T
- v.** Proper identification or certification demonstrating that the applicant is at least eighteen (18) years of age; and (4-4-03)T
- vi.** Any other information required by the commission. (4-4-03)T

b. Each application submitted will be subject to electronic verification, with respect to name, principal residence address, date of birth and Social Security number, by either an independent service provider or another means which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by an independent service provider. If there is a discrepancy between the application submitted and the information provided by the electronic verification described herein, or if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. (4-4-03)T

02. Minimum Deposit. In establishing an account a minimum deposit of fifty dollars (\$50) is required. (4-4-03)T

03. Identifying Account Number. Each account shall have a unique identifying account number. The identifying account number may be changed at any time by the advance deposit wagering center provided the advance deposit wagering center informs the account holder in writing prior to the change. (4-4-03)T

04. Secure Personal Identification Code. The applicant shall supply the advance deposit wagering center with an alpha-numeric code, to be used as a secure personal identification code when the account holder is

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placing an account wager. The account holder has the right to change this code at any time. (4-4-03)T

05. Principle Residence. The principal residence address shall be established by reliance on the information submitted on the application form provided and certified by the applicant. (4-4-03)T

06. The Account Holder Shall Receive. The holder of the account shall receive, at the time the account is approved: (4-4-03)T

a. A unique account identification number; (4-4-03)T

b. A copy of the advance deposit wagering rules and such other information and material that is pertinent to the operation of the account; (4-4-03)T

c. Such other information as the advance deposit wagering center or commission may deem appropriate. (4-4-03)T

07. Name Of Natural Persons. The advance deposit wagering center shall accept accounts in the name of a natural person only. (4-4-03)T

08. Nontransferable. The account is nontransferable between natural persons. (4-4-03)T

09. Close Or Refuse To Open An Account. The advance deposit wagering center may close or refuse to open an account for what it deems good and sufficient reason, and shall order an account closed if it is determined that information that was used to open an account was false, or that the account has been used in violation of these rules. (4-4-03)T

044. OPERATION OF AN ACCOUNT.

01. Center May Refuse Deposits. The advance deposit wagering center may refuse deposits to an account for what it deems good and sufficient reason. (4-4-03)T

02. Center May Suspend Or Close Account. The advance deposit wagering center may suspend any account or close any account at any time provided that when an account is closed, the advance deposit wagering facility shall, within five (5) business days, return to the account holder all monies then on deposit by sending a check to the principal residence address as listed on the application. (4-4-03)T

03. Credits To An Account. Credits to an account after the initial establishment of the account may be made as follows: (4-4-03)T

a. Deposits to an account by an account holder shall be made in the following forms: (4-4-03)T

i. Cash given to the staff of an advance deposit wagering center; or (4-4-03)T

ii. Personal or cashier check, money order given or sent to an advance deposit wagering center; or (4-4-03)T

iii. Charges made to an account holder's credit card or debit card upon the direct and personal instruction of the account holder, which may be given by telephone or any electronic device to the advance deposit wagering facility by the account holder if the use of the card has been approved by the advance deposit wagering center; or (4-4-03)T

iv. Transfer by means of an electronic funds transfer from a monetary account controlled by an account holder to his account, said account holder is liable for any charges imposed by the transmitting or receiving entity with such charges to be deducted from the account. (4-4-03)T

b. Credit for winnings from wagers placed with funds in an account and credit for account wagers on entries that are scratched shall be posted to the account by the advance deposit wagering center. (4-4-03)T

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- 04. Debits To An Account.** Debits to an account shall be made as follows: (4-4-03)T
- a.** Upon receipt by the advance deposit wagering center of an account wager, the advance deposit wagering center shall debit the account in the amount of the wager; or (4-4-03)T
- b.** For fees for service or other transaction-related charges by the race meet licensee or agent of the race meet licensee; or (4-4-03)T
- c.** An advance deposit wagering center may authorize a withdrawal from an account when one (1) of the following exists: (4-4-03)T
- i.** The account holder of an account appears personally at the advance deposit wagering center and provides the following: (4-4-03)T
- (1) Proper identification; (4-4-03)T
- (2) The correct secure personal identification code; and (4-4-03)T
- (3) A properly completed and signed withdrawal slip. (4-4-03)T
- ii.** The account holder sends to the advance deposit wagering center a properly completed and signed withdrawal slip. Upon receipt of a properly completed and signed withdrawal slip, and if there are sufficient funds in the account to cover the withdrawal, the advance deposit wagering center shall, within five (5) business days of its receipt, send a check to the account holder. The check shall be payable to the holder of the account and in the amount of the requested withdrawal. If funds are not sufficient to cover the withdrawal, the account holder will be notified in writing and those funds in the account will be withdrawn and sent to the account holder within the five (5) business day time period. Electronic funds transfers may be used for withdrawals in lieu of a check at the discretion of the account holder and the advance deposit wagering center subject to the same conditions described for electronic funds transfer credits described in Subsection 044.03.a.iv. of this rule. (4-4-03)T
- d.** The race meet licensee or the agent of the race meet licensee may close accounts in which there has been no activity for at least six (6) months, returning funds remaining therein to the account holder at his principal residence address. (4-4-03)T
- e.** In the event an account holder is deceased, funds accrued in the account shall be released to the decedent's legal representative upon receipt of a copy of a valid death certificate, tax releases or waivers, probate court authorizations or other documents required by applicable laws. (4-4-03)T
- 05. Shall Not Accept Wagers In Excess Of Account Balance.** The advance deposit wagering center shall not accept wagers from an account holder in an amount in excess of the account balance. (4-4-03)T
- 06. Accordance With Financial Institution.** Checks, money orders and other negotiable instruments shall be posted to the credit of the account holder in accordance with financial institution funds availability schedules. (4-4-03)T
- 07. Accounts Shall Not Bear Any Interest.** Monies deposited with the advance deposit wagering center for advance deposit wagering shall not bear any interest to the account holder. (4-4-03)T
- 045. -- 049. (RESERVED).**
- 050. MULTI-JURISDICTIONAL SIMULCASTING AND INTERACTIVE WAGERING TOTALIZATOR HUB - ADVANCE DEPOSIT WAGERING RULES APPLY.**
- 01. Residents Of The State Of Idaho.** The advance deposit wagering rules, as set forth in Sections 042 through 050 of these rules, shall apply to the establishing and to the operation of an account for residents of the state of Idaho by the hub operator or its agents unless expressly noted otherwise in these rules. (4-4-03)T

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02. Principal Residence. Notwithstanding Section 044 of these rules, accounts can be established and operated for people whose principal residence is outside of the state of Idaho including residents of foreign jurisdictions, if: (4-4-03)T

a. Wagering on that same type of live racing is lawful in the jurisdiction which is the natural person's principal residence; and (4-4-03)T

b. The hub complies with the provisions of the Interstate Horseracing Act, 15 U.S.C. Sections 3001 to 3007. (4-4-03)T

03. No Surcharge For Non-Idaho Residents. Notwithstanding Section 045 of these rules, there will be no surcharge charged on any wager being processed through the hub for non-Idaho residents. (4-4-03)T

04. Closed-Loop Subscriber Based System. Nothing in Section 043 of these rules prohibits the making or acceptance of wagers over a closed-loop subscriber based system. (4-4-03)T

05. Residence Outside The State Of Idaho. Requirements for the establishment and operation of accounts for individuals whose principle residence is outside of the state of Idaho shall be set forth in the operation plan as stated in Subsection 044.03 of these rules. (4-4-03)T

051. APPROVAL OF THE LICENSE FOR AN ADVANCE DEPOSIT WAGERING HUB OPERATION.

01. License Granted. Prior to operating a hub the entity must apply for and be granted a license from the commission to conduct simulcasting and pari-mutuel wagering in accordance with Subsection 011.01 of these rules as a "Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub." (4-4-03)T

02. License For Multi-Jurisdictional Simulcasting And Interactive Wagering Totalizator HUB. An applicant for a "Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub" license must provide the following information as part of the application: (4-4-03)T

a. The applicant's legal name; (4-4-03)T

b. If the applicant is a corporation, the names, addresses, dates of birth of its shareholders, directors and officers; if a shareholder is a corporation the date of incorporation, the place of incorporation and the names, addresses, and dates of birth of its shareholders, directors and officers must be provided; (4-4-03)T

c. If the applicant is a partnership the names, addresses, dates of birth of the partners; if a partner is a corporation the date of incorporation, the place of incorporation and the names, addresses, and dates of birth of its share holders must be provided; (4-4-03)T

d. If the applicant is a corporation ultimately owned by a not-for-profit entity without any shareholders, or is a publicly traded corporation, the information required in Subsection 051.02.b. and 051.02.c. of these rules shall be required from the directors of the membership organization, or the directors and officers of the publicly traded corporation, in lieu of the shareholders; (4-4-03)T

e. The names of the race tracks the applicant, or its agent, has contracts with that allow the applicant to provide the simulcast signals and pari-mutuel wagering on the product; (4-4-03)T

f. Financial information from the applicant that demonstrates whether the applicant has the financial resources to install and operate a hub; (4-4-03)T

g. A detailed budget showing anticipated revenue, expenditures and cash flows by month, from the hub's operation during the license period; and (4-4-03)T

h. The number of days that the applicant is planning to operate the hub during the fiscal year in which they are seeking to be licensed. (4-4-03)T

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03. Detailed Plan Of Operations. As part of the application for licensure as a hub, the applicant shall submit a detailed plan of operations in a format and containing such information as required by the commission. At a minimum, the operating plan shall address the following issues: (4-4-03)T

- a.** The manner in which the proposed simulcasting and wagering system will operate; (4-4-03)T
- b.** The requirements for a "qualified subscriber based service" or "closed loop subscriber based system" set out in Subsection 051.01; (4-4-03)T
- c.** Programs for responsible wagering; (4-4-03)T
- d.** Mitigation for the effects of advance deposit wagering on the source market in which the account holder resides; and (4-4-03)T
- e.** The requirements for accounts established and operated for persons whose principal residence is outside of the state of Idaho. The commission may require changes in a proposed plan of operations as a condition of granting a license. No subsequent changes in the system's operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request. (4-4-03)T

04. Investigations Or Inspections. The commission may conduct investigations or inspections or request additional information from the applicant as it deems appropriate in determining whether to approve the license application. (4-4-03)T

05. Bond Or Irrevocable Letter Of Credit. The applicant will provide the commission a bond or irrevocable letter of credit in the amount set by the commission which will be used to ensure that payments to the commission and to the wagering accounts are made. An account holder, who is claiming that nonpayment has occurred, shall make a claim of non-payment to the commission. The commission will investigate the claim and provide the hub with an opportunity to respond thereto and submit any supporting documents or evidence it needs to defend the claim. If the commission determines that the account holder is entitled to restitution, the hub shall have ten (10) days to pay the amount determined by the commission. If the hub fails to make restitution within this time, the commission may take appropriate action against the bond. (4-4-03)T

07. Promote And Advertise. An applicant licensed under this section may enter into such agreements, as for what it deems good and sufficient reasons, are necessary to promote, advertise and further the sport of racing or that may be necessary for the effective operation of interstate account wagering, including, without limitation, television production and telecommunications services. (4-4-03)T

052. TOTAL TAKE-OUT RATES FOR NON-MERGED POOLS. The hub operator shall as part of the operational plan, or update to the plan, set the total take-out rate, subject to the approval of the commission, for those wagering pools which are not merged with the wagering pools of the race track where the race is being run live. (4-4-03)T

053. WHERE THE WAGER IS CONSIDERED TO HAVE BEEN MADE.

01. From An Account Maintained By The Hub Operator. Any wager that is made from an account maintained by the hub operator is considered to have been made in the state of Idaho. (4-4-03)T

02. Instructions For Account Wagers. Account holders may communicate instructions concerning account wagers to the hub in person, by mail, telephone, or electronic means. (4-4-03)T

054. POWERS OF THE COMMISSION TO REVIEW AND AUDIT RECORDS. The commission, or its staff, will be given access to all records and financial information of the hub operator, including all account information, for review and audit. This information will be made available to the commission or commission staff, by the hub operator at the hub location, upon notice from the commission or commission staff at all reasonable times. The commission may require that the hub operator annually submit to the commission audited financial statements of the advance deposit wagering system. (4-4-03)T

2004 - State Affairs House Pending Rule (Yellow)

055. -- 059. (RESERVED).

060. DISTRIBUTION OF RECEIPTS FROM MULTI-JURISDICTIONAL SIMULCASTING AND INTERACTIVE WAGERING TOTALIZATOR HUBS.

01. Distribution. From the payments made to the Idaho State Racing Commission by Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs, the commission shall: (4-4-03)T

a. Receive a source market fee of not less than ten percent (10%) of the handle shall be forwarded monthly to the commission. Distribution of the source market fee shall be: (4-4-03)T

i. Forty percent (40%) to purses at all tracks weighted by number of races ran through the year of distribution: (4-4-03)T

ii. Forty percent (40%) to the simulcast sites in the state weighted by the annual simulcast handle: (4-4-03)T

iii. Five percent (5%) to the track distribution fund pursuant to Section 54-2513, Idaho Code: (4-4-03)T

iv. Five percent (5%) to the breed distribution fund pursuant to Section 54-2513, Idaho Code: (4-4-03)T

v. Five percent (5%) to the Idaho State Racing Commission, and: (4-4-03)T

vi. Five percent (5%) to the public school income fund pursuant to Section 54-2513, Idaho Code. (4-4-03)T

02. Acceptance Of Advance Deposit Wagers. Account wagers shall be accepted at the time and in the manner designated by the commission. (4-4-03)T

03. Closed Wagering. Notwithstanding any other rules, the managing employee of the advance deposit wagering center may at any time declare the advance deposit wagering center closed for receiving wagers on any pari-mutuel pool, race, group of races, or closed for all wagering. Anytime the advance deposit wagering center is closed during normal wagering hours by the managing employee a written report must be filed with the commission within forty-eight (48) hours. (4-4-03)T

04. Refuse To Accept. The advance deposit wagering center has the right at any time and for what it deems good and sufficient reason to refuse to accept all or part of any wager. (4-4-03)T

05. Account Holder Responsibilities. Accounts are for the personal use of the account holder. The account holder is responsible for maintaining the secrecy of the account number and secure personal identification code. Except where the advance deposit wagering center or its employees or agents act without good faith or fail to exercise ordinary care, the advance deposit wagering center shall not be responsible for any loss arising from the use by any other person or persons of an account holder's account. The account holder must immediately notify the advance deposit wagering center of a breach of the account's security. (4-4-03)T

06. Payments On Winning Pari-Mutuel Wagers. Payment on winning pari-mutuel wagers and credits for account wagers on entries which are scratched shall be posted to the credit of the account holder as soon as practicable after the race is declared official. (4-4-03)T

07. Written Statements. The advance deposit wagering center shall, from time to time, but not less than once per year, provide written statements of an individual's account activity during the period to each account holder. In addition, an account holder has the right to request a statement at any time. Unless written notice to the contrary is received by the advance deposit wagering center within fourteen (14) days of the date that any statement is sent to an account holder, the statement will be deemed accepted as correct. (4-4-03)T

2004 - State Affairs House Pending Rule (Yellow)

IDAHO STATE POLICE
Rules Governing Simulcasting

Docket No. 11-0402-0301
Temporary and Proposed Rulemaking

08. Mailing Address. The principal residence address provided in writing by the account holder at the time of application is deemed to be the proper address for the purposes of mailing checks, statements of account, account withdrawals, notices, or other appropriate correspondence. The mailing of checks or other correspondence to the address given by the account holder shall be at the sole risk of the account holder. (4-4-03)T

09. Confidential Information. No employee or agent of the advance deposit wagering center shall divulge any confidential information related to the placing of any wager or any confidential information related to the operation of the advance deposit wagering center, except to the account holder as required by these rules, the commission, and as otherwise required by state or federal law, or the rules of racing of this state. (4-4-03)T

04261. -- 999. (RESERVED).

2004 - State Affairs House Pending Rule (Yellow)

IDAPA 15 - OFFICE OF THE GOVERNOR IDAHO STATE LIQUOR DISPENSARY

15.10.01 - RULES OF THE IDAHO STATE LIQUOR DISPENSARY

DOCKET NO. 15-1001-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 23-203, 23-206, and 23-208, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 218 through 220.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact James M. "Dyke" Nally, Superintendent, at (208) 947-9400.

DATED this 28th day of October, 2003.

James M. "Dyke" Nally, Superintendent
Idaho State Liquor Dispensary
1349 Beechcraft Crt.
P. O. Box 179001
Boise, Idaho 83717-9001
Telephone: (208) 947-9400
Facsimile: (208) 947-9413

IDAPA 15, TITLE 10, CHAPTER 01

RULES OF THE IDAHO STATE LIQUOR DISPENSARY

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 218 through 230.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - State Affairs House Pending Rule (Yellow)

IDAPA 15 - OFFICE OF THE GOVERNOR IDAHO STATE LIQUOR DISPENSARY

15.10.01 - RULES OF THE IDAHO STATE LIQUOR DISPENSARY

DOCKET NO. 15-1001-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 23-203, 23-206, and 23-208 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: This rule change clarifies the right of Dispensary personnel to remove underage and intemperate persons from the store premises. This change responds to a growing need in the retail liquor stores operated by the Dispensary (referred to as State Stores) to clarify the right of Dispensary personnel to remove underage and intemperate persons from the store premises. This rule is intended to allow the exercise of discretion by Dispensary personnel to discourage entry and loitering by underage or intemperate persons where their presence is disruptive or is inconsistent with the Dispensary's charge to curtail intemperate use of alcoholic beverages.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01-811, negotiated rulemaking was not conducted because the rulemaking is noncontroversial.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact J. M. "Dyke" Nally, Superintendent at (208) 334-2524.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 20th day of August, 2003.

J. M. "Dyke" Nally
Superintendent
Idaho State Liquor Dispensary
1349 Beechcraft Crt.
P. O. Box 179001
Boise, Idaho 83717-9001
Telephone: (208) 334-2524
Facsimile: (208) 334-2533

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-1001-0301

2004 - State Affairs House Pending Rule (Yellow)

010. RETAIL STORES.

01. Site Location. Based on the criteria set forth in this section and in accordance with Sections 23-301 and 23-302, Idaho Code, the Dispensary will select an appropriate retail store site to adequately serve the community. (3-20-97)

a. State stores will generally be established in larger cities of the state where sales volume cost justifies adequate profitable operation. (3-20-97)

b. Special distributors will generally be contracted in the smaller cities of the state. However, special distributors who meet or exceed Dispensary operating expectations, and whose sales volume has grown to exceed minimum state store sale thresholds, will not be denied a special distributor agreement because of their larger size of operation. (Sections 23-301 and 23-302, Idaho Code). (3-20-97)

02. Site Selection Criteria. The following criteria will be used in selecting a location for a new retail store. (3-20-97)

a. Public acceptability of location in accordance with Sections 23-301 and 23-302, Idaho Code. (3-20-97)

b. Location and suitability of premises. (3-20-97)

c. Lease amount may not be the sole determining factor in site selection; final selection will be determined at the discretion of the Superintendent. (3-20-97)

d. Compliance with local zoning. (3-20-97)

03. Customer Refunds And Exchanges. No cash refunds will be authorized without prior approval of the Superintendent or his authorized agent. (3-20-97)

a. Liquor may be exchanged for other liquor of the same or higher price upon approval of the store manager and presentation of a valid receipt. (3-20-97)

b. Liquor brought in for exchange or refund must have been purchased in Idaho through the Dispensary and must have the official Idaho seal as prescribed by the Dispensary. (3-20-97)

c. A re-shelving charge may be assessed on all returned items in accordance with Section 23-311, Idaho Code. (3-20-97)

04. Disabled Customers. Appropriate special services, in accordance with the Americans with Disabilities Act, will be provided to disabled customers. (3-20-97)

05. Special Orders. Customers seeking liquor not carried in the Dispensary's product line may place a special order for such liquor. (3-20-97)

a. The order must be picked up in total within one (1) week's time after notification by the store manager. Orders not picked up within one (1) week following such notification are subject to forfeiture of deposit and the liquor may be placed on the shelf for sale. (3-20-97)

b. Order cancellations will be honored if done within seven (7) calendar days from the date the order was placed and, if the cancellation is accepted by the vendor. (3-20-97)

c. A deposit or a percentage of the order price, as specified by the Superintendent, may be required before a special order is placed. (3-20-97)

d. If the liquor is not available within ninety (90) days, a customer may request a deposit refund if the

2004 - State Affairs House Pending Rule (Yellow)

IDAHO STATE LIQUOR DISPENSARY
Rules of the Idaho State Liquor Dispensary

Docket No. 15-1001-0301
Proposed Rulemaking

cancellation is accepted by the vendor. (3-20-97)

06. Prices. All prices will be in accordance with the published price list set by the Superintendent in accordance with Section 23-207(h), Idaho Code. (3-20-97)

07. Distressed Liquor. Price adjustments can be made on distressed liquor with the approval of the Superintendent or his authorized agent. (3-20-97)

08. Hours And Days Of Operation. Standard store hours shall be from 11 a.m. to 7 p.m. Monday through Saturday and shall be in accordance with Section 23-307, Idaho Code. Special hours of operation may be adjusted as approved by the Superintendent or his authorized agent. (3-20-97)

09. Customer Response Cards. Each store will have customer response cards for customers to use when filing comments or complaints. These cards will be pre-addressed to the Dispensary. The Superintendent or his authorized agent shall investigate all comments and promptly respond to the customer. (3-20-97)

10. Audits. Designated Dispensary personnel shall perform periodic inspections of all retail stores. Such inspections may be on an unannounced basis and may include physical inventory counts with the assistance of the store manager or authorized agent to assess the suitability of inventory levels and product mix and other evaluation procedures. (3-20-97)

11. Admission To State Store. To protect the assets of a State Store, to enhance the safety of Dispensary personnel and the public, and to aide in the performance of the Dispensary's duties, State Store personnel may refuse a person entry into a State Store, may require a person to leave a State Store, or may take other actions as are appropriate to cause the removal of a person from a State Store where such person's presence in the State Store is disrupting performance of the Dispensary's duties or is inconsistent with the Dispensary's charge to curtail the intemperate use of alcoholic beverages. (____)

2004 - State Affairs House Pending Rule (Yellow)

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Idaho Public Utilities Commission and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Commission has adopted a pending rule. This action is authorized pursuant to Sections 61-129 and 61-515, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule:

The pending rule is being adopted as proposed. One public comment was received in response to the proposed rule and it supported adoption of the proposed rule. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 480 and 481.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, (208) 334-0312.

DATED this 28th day of October, 2003.

Jean D. Jewell
Commission Secretary

Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington
Boise, Idaho 83702-5983

IDAPA 31, TITLE 11, CHAPTER 01

SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

There are no substantive changes from the proposed rule text.

**The complete text of the proposed rule was published in the Idaho Administrative
Bulletin, Volume 03-10, October 1, 2003, pages 480 and 481.**

**This rule has been adopted as a pending rule by the Agency and is now pending
review and approval by the 2004 Idaho State Legislature as a final rule.**

2004 - State Affairs House Pending Rule (Yellow)

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given of the Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-515, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site will be accessible to persons with disabilities. Requests for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rule:

The Commission's Safety and Accident Reporting Rules currently adopt by reference several national safety codes. In Rule 202, the Commission proposes to adopt the 2003 edition of the International Fuel Gas Code (IFGC). The Commission proposes to replace the previously adopted 1999 edition of the National Fuel Gas Code with the 2003 edition of the IFGC. The IFGC is intended to be consistent and inclusive with the latest edition of the National Fuel Gas Code (2002). Sections 39-4109 and 39-4116, Idaho Code, permit local governments to adopt various International Codes published by the International Code Council. Most if not all communities that have adopted a fuel gas code have adopted the IFGC.

In Rule 203, the Commission proposes to adopt those portions of the 2003 International Mechanical Code (IMC) that explicitly refer to gas or gas-burning appliances. The IMC is published by the International Code Council. Portions of the IMC will replace the previously adopted 2000 edition of the Uniform Mechanical Code. Nearly all communities that have adopted a mechanical code have adopted the IMC.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because these proposed rules adopt national safety codes dealing with the provision of natural gas services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312 or Michael Fuss, PUC Staff Engineer, at (208) 334-0366.

Anyone may submit written comments regarding these proposed rules. All written comments concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before October 22, 2003. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED at Boise, Idaho this 11th day of August, 2003.

Jean D. Jewell, Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington
Boise, ID 83702-5983

2004 - State Affairs House Pending Rule (Yellow)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-1101-0301

202. INTERNATIONAL FUEL GAS CODE (AIFGA) (Rule 202).

01. Adoption By Reference. The Commission adopts by reference the ~~NFPA 54 ANSI Z223.1 National~~ International Fuel Gas Code, 1999 2003 Edition and the errata 99-1 dated April 23, 20003. The 1999 Edition of the National Fuel Gas Code is designated as ANSI Z223.1-1999 by the American National Standards Institute, Inc. (ANSI), and as NFPA 54-1999 by the National Fire Protection Association (NFPA). The National International Fuel Gas Code is jointly published by the American Gas Association, Codes and Standards, 400 N. Capitol Street, NW, Washington, D.C. 20001, and the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, and International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041. The Code is available from ~~them~~ the Code Council and may be ordered online at www.iccsafe.org. Telephone orders may be placed by calling toll-free ~~1-800-344-3555~~ 284-4406. ()

02. Utility Compliance. All gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the National International Fuel Gas Code and to connect for service and light only those installations that: (3-30-01)()

- a. Have been inspected and approved by authorized agencies; or (4-1-98)
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the InterNational Fuel Gas Code as a condition of receiving service or continuing to receive service. (4-1-98)()

203. UNIFORM INTERNATIONAL MECHANICAL CODE (UIMC) (Rule 203).

01. Adoption By Reference. The Commission adopts by reference those portions of the Uniform 2003 International Mechanical Code 2000 Edition and the undated first errata explicitly referring to gas or gas-burning appliances; ~~provided, however, that unvented room heaters not meeting the requirements of Section 807(e) of the Uniform Mechanical Code may be connected for service if they comply with Sections 6.24 and 7.2 of the National Fuel Gas Code.~~ The Uniform International Mechanical Code 2000 Edition is published by the International Association of Plumbing and Mechanical Officials Code Council, 20001 South Walnut Drive, Walnut, California 91789-2825 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041 and may be ordered by calling toll-free 800-284-4406 or online at www.iccsafe.org. ()

02. Utility Compliance. Gas ~~E~~corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the Uniform International Mechanical Code and to connect for service and light only those installations that: (3-30-01)()

- a. Have been inspected and approved by authorized agencies; or (4-1-98)
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the Uniform International Mechanical Code; ~~provided, however, that unvented room heaters not meeting the requirements of Section 807(e) of the Uniform Mechanical Code may be connected for service if they comply with Sections 6.24 and 7.2 of the National Fuel Gas Code~~ as a condition of receiving service or continuing to receive service. (4-1-98)()

2004 - State Affairs House Pending Rule (Yellow)

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.21.01 - CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION (THE UTILITY CUSTOMER RELATIONS RULES)

DOCKET NO. 31-2101-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Idaho Public Utilities Commission and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Commission has adopted a pending rule. This action is authorized pursuant to Sections 61-507, 61-515, and 62-622(5), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 482 through 489.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 28th day of October, 2003.

Jean D. Jewell

Commission Secretary

Idaho Public Utilities Commission

PO Box 83720

Boise, ID 83720-0074

Telephone: (208) 334-0338

Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington

Boise, Idaho 83702-5983

IDAPA 31, TITLE 11, CHAPTER 01

CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION (THE UTILITY CUSTOMER RELATIONS RULES)

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 482 through 489.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - State Affairs House Pending Rule (Yellow)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.21.01 - CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION (THE UTILITY CUSTOMER RELATIONS RULES)

DOCKET NO. 31-2101-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given of the Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-507 and 61-515, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, political subdivision, or an agency, no later than October 15, 2003.

The hearing site will be accessible to persons with disabilities. Requests for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rules:

The Commission is proposing several changes to its Utility Customer Relations Rules that address customer billing, deposits and termination of service. First, several revisions address minors who apply for service, situations where a resident or occupant is receiving service temporarily after a customer requests termination of service, and electronic payments drawn on accounts with insufficient funds. Second, revisions to Rules 104 and 301 would allow utilities to provide written or oral notice when the utility requires a deposit or intends to deny service. Third, the Commission proposes to delete the requirements that utilities provide customers a letter of good credit after discontinuing service (Rule 205) and that medical certificates furnished by customers contain information about the nature of the illness or medical emergency (Rule 308). Fourth, the Commission proposes to clarify Rule 107 that addresses when deposits must be returned to existing customers. Finally, the Commission proposes to amend several rules to improve readability and clarity, eliminate ambiguities, correct citations and cross-references, and make other housekeeping changes.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, informal negotiated rulemaking was conducted at a series of workshops attended by representatives of gas and electric utilities affected by the proposed changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Beverly Barker, Consumer Assistance Administrator, at (208) 334-0302.

DEADLINE FOR WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules. All written comments concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before October 22, 2003. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED at Boise, Idaho this 20th day of August, 2003.

Jean D. Jewell, Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington
Boise, ID 83702-5983

2004 - State Affairs House Pending Rule (Yellow)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-2101-0301

005. DEFINITIONS (Rule 5).

The following definitions are used in this title and chapter:

(7-1-93)

01. Applicant. Unless restricted by definition within a rule or group of rules to a particular class of service, "applicant" means any potential customer who applies for service from a utility ~~and either has no previous service from that utility or has not had service with that utility within the most recent sixty (60) days.~~ Utilities may require an adult or minor competent to contract to join a minor not competent to contract as an applicant.

(7-1-93)()

02. Customer. Unless restricted by definition within a rule or group of rules to a particular class of customer, "customer" means any person who:

(7-1-93)

~~a. Has applied for;~~

(7-1-93)

~~b. Has been accepted; by the utility, and~~

(7-1-93)

~~c. Is currently;~~

(7-1-93)()

~~ii a. Receiving service from a utility; or~~

(7-1-93)

~~b. Has received service within the past ten (10) calendar days prior to termination by the utility; or~~

()

~~ii c. Assuming Has assumed~~ responsibility for payment of service provided to another or others. If the person receiving service is not the same person as the person assuming responsibility for payment of service, the latter is the customer for purposes of obtaining or terminating service, ~~cancelling service,~~ receiving refunds, ~~etc or making changes to the account.~~ Additionally, a person who moves within a utility's service territory and requests that service be terminated at the customer's previous location and that service be initiated at a new location within sixty (60) days is considered an existing customer and not an applicant.

(7-1-93)()

~~03. Good Credit.~~ "Good credit" means payment by a customer for the most recent twelve (12) consecutive month period of all undisputed bills due the utility before the utility's dispatch of personnel to the customer's premises as allowed by the rules to leave a twenty four (24) hour notice or to terminate service. (7-1-93)

043. Utility. Unless restricted by definition within a rule or group of rules, "utility" means any public utility providing gas, electric or water service subject by law to the Commission's jurisdiction, whether previously certified or not.

(7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

104. ~~WRITTEN~~ EXPLANATION FOR ~~DENIAL OF SERVICE OR~~ REQUIREMENT OF DEPOSIT (Rule 104).

If the utility ~~denies service or~~ requires a cash deposit as a condition of providing service, then it ~~must~~ shall immediately provide an ~~written~~ explanation to the applicant or customer stating the precise reasons why ~~it denies service or requires~~ a deposit is required. The applicant or customer ~~must~~ shall be given an opportunity to rebut those reasons. In the event of a dispute, the applicant or customer shall be advised that an informal or formal complaint may be filed with the Commission.

(3-30-01)()

2004 - State Affairs House Pending Rule (Yellow)

(BREAK IN CONTINUITY OF SECTIONS)

107. RETURN OF DEPOSIT (Rule 107).

01. Former Customers. Upon termination of service, the deposit, (with accrued interest,) shall be credited to the final bill. The balance of the deposit remaining, if any, shall be returned promptly to the customer. (7-1-93)(____)

02. Existing Customers. If the customer has paid all undisputed bills and has no more than one (1) late payment during the past twelve (12) consecutive months of service, the utility shall promptly return the deposit, (with accrued interest,) must by either be credited to crediting the customer's current account or be issuing a refunded promptly by the utility when: (3-30-01)(____)

a. ~~The residential customer establishes and maintains good credit; or~~ (7-1-93)

b. ~~The small commercial customer maintains good credit and is not delinquent more than once in the previous twelve (12) months.~~ (7-1-93)

03. Retention During Dispute. The utility may retain the deposit pending the resolution of a dispute over termination of service. If the deposit is later returned to the customer, the utility shall pay interest at the annual rates established in Rule 106 for the entire period over which the deposit was held. (7-1-93)

04. Early Return Of Deposit. A utility may refund a deposit plus accrued interest in whole or in part at any time before the time prescribed in this rule. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

109. RECEIPT FOR DEPOSIT -- RECORDS OF DEPOSIT (Rule 109).

01. Receipts. Each customer paying a deposit or the initial installment on a deposit ~~must~~ shall then be given a receipt containing or otherwise be provided with the following information: (7-1-93)(____)

a. Name of customer and service address for which deposit is held; (7-1-93)

b. Date of payment(s); (7-1-93)

c. Amount of payment(s); and (7-1-93)

d. Statement of the terms and conditions governing the return of deposits. An ordinary receipt may be given for subsequent deposit installments. (7-1-93)

02. Retention Of Records. Each utility shall maintain records that will enable a customer entitled to a return of a deposit to obtain a refund even though the customer may be unable to produce the original receipt(s) for the deposit. The utility shall maintain a detailed record of all deposits received from customers, showing the name of each customer, the location of the premises occupied by the customer when the deposit is made and each successive location occupied by the customer while the deposit is retained, and the date(s) and amount(s) of the deposits or installments. The utility shall retain records of deposits that have been refunded to customers for a period of three (3) years after the date of refund. The utility shall retain these records of unclaimed deposits for a period of seven (7) years as required by the Unclaimed Property Act, Sections 14-501 et seq., Idaho Code, and in particular Section 14-531, Idaho Code (ten years). (7-1-93)(____)

03. Transfer Of Records. Upon the sale or transfer of any utility or any of its operating units, the seller shall certify to the Commission that it has a list showing the names of all customers whose service is transferred and who have a deposit on file, the date the deposit was made, and the amount of the deposit. (7-1-93)

2004 - State Affairs House Pending Rule (Yellow)

(BREAK IN CONTINUITY OF SECTIONS)

205. ~~CUSTOMERS WITH GOOD CREDIT -- FINAL BILLS (Rule 205) (RESERVED).~~

~~When a customer with good credit voluntarily terminates service with the utility, the final bill shall contain or be accompanied by a statement that the customer had good credit with the utility. When an applicant for service presents such a statement to a utility, whether from a utility regulated by this Commission or otherwise, the statement constitutes evidence of good credit in the application for utility service. However, presentation of such a statement will not require the utility to consider the applicant to have good credit solely on the basis of that statement. (7-1-93)~~

206. ~~TRANSFER OF RESPONSIBILITY FOR PAYMENT OF BILLS -- RESIDENTIAL CUSTOMERS~~ (Rule 206).

01. Customer Defined. For purposes of this rule, "customer" means a customer whose name appears on the utility's regular bill for residential service or who signed a written application for service or other document informing the customer that he or she was assuming an obligation for payment for service. (7-1-93)

02. Customer's Responsibility. A customer shall not be held responsible for payment of an amount owed by any person who resides at the customer's premises or is a member of the customer's household, but whose name does not appear on the current bill or application for service, unless: (7-1-93)

a. The customer signs a written agreement to pay or otherwise expressly accepts responsibility for payment of the other person's bill; or (7-1-93)()

b. The customer has a legal obligation to pay the other person's bill. (7-1-93)

03. ~~Customer Notice Of Transfer Of Bill To Another Customer.~~ ~~No~~ The utility shall ~~transfer any amount owed by a customer or former customer to another customer's account without~~ provide written notice: of its intent to add to the customer's bill for current service an amount owed for: (7-1-93)()

a. Another person's bill; or ()

b. Service rendered at a former service location, provided that the lapse in service exceeds sixty (60) calendar days. ()

04. Contents Of Notice. The notice must include ~~the following information concerning the bill amount the utility is proposing to transfer:~~ (7-1-93)()

a. The name of the customer of record who owes the bill amount; (7-1-93)

b. The service location involved; (7-1-93)

c. The time over which the ~~transferred~~ bill amount was accumulated; (7-1-93)()

d. The amount owed; (7-1-93)

e. The reason(s) for ~~transferring~~ adding the bill amount to the customer's ~~account~~ bill statement; (7-1-93)()

f. A statement that payment arrangements may be made on the amount owed; (7-1-93)

g. A statement that the customer has the right to contest the ~~transfer~~ utility's proposed action with the utility or the Commission; and (7-1-93)()

2004 - State Affairs House Pending Rule (Yellow)

PUBLIC UTILITIES COMMISSION The Utility Customer Relations Rules

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Proposed Rulemaking

h. The response deadline after which the bill amount will be ~~transferred~~ added to the customer's bill statement. (7-1-93)()

~~045.~~ **Opportunity To Respond.** The customer shall be given a minimum of seven (7) calendar days from the date of the proposed action to respond to the utility's notice. (7-1-93)()

~~05.~~ **Transfer Of Bills For Customers Who Move.** ~~The utility shall not be required to notify a customer of its intent to transfer an amount owed if that customer remains the customer named on the bill and moves to another location within the utility's service territory, provided that the lapse in service does not exceed sixty (60) days for electric and water utilities, or one (1) heating season for gas utilities.~~ (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

301. ~~REQUIREMENTS EXPLANATION FOR AND CONTENTS OF NOTICE OF~~ DENIAL OF SERVICE TO APPLICANT (Rule 301).

01. Explanation To Applicant. If the utility intends to deny service to an applicant under Rule 302, the utility ~~must give~~ shall provide an explanation to the applicant ~~written notice of~~ stating the reasons for the utility's refusal to serve. ~~The notice shall state:~~ (7-1-93)

~~01.~~ **Reasons.** ~~The reasons for denial of service;~~ (7-1-93)

~~02.~~ **Actions Of Applicant.** ~~Actions of~~ The applicant ~~may take~~ shall be advised of what action(s) must be taken to receive service; ~~and.~~ (7-1-93)

~~03.~~ **Complaint May Be Filed.** ~~In the event of a dispute, the applicant shall be advised that an informal or formal complaint concerning denial of service may be filed with the Commission.~~ (7-1-93)()

02. Written Notice. If service is currently being provided to the premises occupied by an applicant, the utility shall provide written notice of its refusal to serve pursuant to Rule 312. ()

302. **GROUND FOR DENIAL OR TERMINATION OF SERVICE WITH PRIOR NOTICE (Rule 302).**
A utility may deny or terminate service to a customer or applicant without the customer's or applicant's permission, but only after adequate notice has been given in accordance with these rules, for one (1) or more of the following reasons: (7-1-93)

01. Failure To Pay. With respect to undisputed past due bills ~~the customer or applicant;~~ ~~did not pay undisputed delinquent bills or~~ ()

a. Failed to pay; ()

b. ~~Paid a delinquent bill with any~~ with a dishonored check ~~not honored by the bank; or~~ (7-1-93)()

c. Made an electronic payment drawn on an account with insufficient funds. ()

02. Failure To Make Security Deposit. The customer or applicant failed to make a security deposit or make an installment payment on a deposit where it is required. (3-30-01)

03. Failure To Abide By Terms Of Payment Arrangement. The customer or applicant failed to abide by the terms of a payment arrangement. (3-30-01)

04. Identity Misrepresentation. The customer or applicant misrepresented the customer's or applicant's identity for the purpose of obtaining utility service. (7-1-93)

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05. **Denial Of Access To Meter.** The customer or applicant denied or willfully prevented the utility's access to the meter. (7-1-93)

06. **Willful Waste Of Service.** The utility determines as prescribed by relevant State or other applicable standards that the customer is willfully wasting service through improper equipment or otherwise. (7-1-93)

07. ~~**Misuse Of Service.** The customer or applicant is using service for which the customer or applicant did not apply.~~ **Service To Minors.** The applicant or customer is a minor not competent to contract as described in Sections 29-101 and 32-101, Idaho Code. (7-1-93)(____)

08. **Previous Account Balance Owning.** Nothing in this rule requires the utility to connect service for a customer or applicant who owes money on an existing account or from a previous account ~~when that customer moves to a new residence that does not have service.~~ (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

304. REQUIREMENTS FOR NOTICE TO CUSTOMERS BEFORE TERMINATION OF SERVICE (Rule 304).

01. ~~**Seven-Day Initial Notice.**~~ If the utility intends to terminate service to a customer under Rule 302, the utility shall send to the customer written notice of termination mailed at least seven (7) calendar days before the proposed date of termination. This written notice ~~must~~ shall contain the information required by Rule 305. (3-30-01)(____)

02. ~~**Twenty-Four Hour Final Notice.**~~ The utility may mail a final written notice to the customer at least three (3) calendar days, excluding weekends and holidays, before the proposed date of termination. Regardless of whether the utility elects to mail a written notice, ~~At least twenty-four (24) hours before actual the proposed date of termination,~~ the utility ~~must~~ shall diligently attempt to contact the customer affected, either in person or by telephone, to advise the customer of the proposed action and steps to take to avoid or delay termination. This ~~oral~~ final notice ~~must~~ shall contain the same information required by Rule 305. (3-30-01)(____)

03. **Additional Notice.** If service is not terminated within twenty-one (21) calendar days after the proposed termination date as specified in a written notice the utility ~~must~~ shall again provide notice under Subsections 304.01 and 304.02 if it still intends to terminate service. (3-30-01)(____)

04. **Failure to Pay** ~~— Payment With Dishonored Check.~~ No additional notice of termination is required if, upon receipt of a termination notice, the customer: (3-30-01)(____)

- a. ~~The customer m~~Makes a payment arrangement and subsequently fails to keep that arrangement; ~~or~~ (3-30-01)(____)
- b. ~~The customer t~~Tenders payment with a dishonored check; or (3-30-01)(____)
- c. ~~The customer, at a utility's collection visit to terminate service, tenders payment with a dishonored check~~ Makes an electronic payment drawn on an account with insufficient funds. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

308. SERIOUS ILLNESS OR MEDICAL EMERGENCY (Rule 308).

2004 - State Affairs House Pending Rule (Yellow)

PUBLIC UTILITIES COMMISSION The Utility Customer Relations Rules

**Docket No. 31-2101-0301
Proposed Rulemaking**

01. Medical Certificate -- Postponement Of Termination Of Service. A utility shall postpone termination of utility service to a residential customer for thirty (30) calendar days from the date of ~~the~~ receipt of a written certificate signed by a licensed physician or public health official with medical training ~~that states: The certificate must contain the following information:~~ (7-1-93)()

a. ~~A statement that~~ The customer, a member of the customer's family, or other permanent resident of the premises where service is rendered is seriously ill or has a medical emergency or will become seriously ill or have a medical emergency because of termination of service, and that (7-1-93)

b. ~~Termination of utility service would adversely affect~~ the health of that customer, member of the customer's family, or resident of the household. (7-1-93)()

~~**02. Contents Of Medical Certificate.** This certificate must be in writing and show clearly~~

b. ~~The name of the person whose serious illness or medical emergency would be adversely affected by termination~~ and the relationship to the customer, and ()

c. ~~the nature of the serious illness or medical emergency, and~~ The name, title, and signature of the person giving notice of or certifying the serious illness or medical emergency. (7-1-93)()

032. Restoration Of Service. If service has already been terminated when the medical certificate is received, service shall be restored as soon as possible, but no later than twenty-four (24) hours after receipt. The customer ~~must~~ shall receive service for thirty (30) calendar days from the utility's receipt of the certificate. (7-1-93)()

~~**04. Payment Arrangements.** Before the expiration of the medical postponement, the customer must make payment arrangements with the utility in accordance with Rule 313.~~ (7-1-93)

053. Second Postponement. The utility may postpone termination of service upon receipt of a second certificate stating that the serious illness or medical emergency still exists. (7-1-93)

064. Verification Of Medical Certificate. The utility may verify the authenticity of the certificate and may refuse to delay termination of service if it is determined that the certificate is a forgery or is otherwise fraudulent. (7-1-93)

05. Obligation To Pay. Nothing in this rule relieves the customer of the obligation to pay any undisputed bill. ()

(BREAK IN CONTINUITY OF SECTIONS)

312. DENIAL OR TERMINATION OF SERVICE TO MASTER-METERED ACCOUNTS AND RESIDENTS OR OCCUPANTS WHO ARE NOT CUSTOMERS (Rule 312).

01. Notice To Occupants Or Residents Not Customers. Except as provided in Rules 303.01 and 303.02, no utility shall deny or terminate service without providing written notice to the residents or occupants of: (7-1-93)()

a. A building or mobile home court where service is master-metered; ~~or~~ (7-1-93)()

b. A residence where the customer billed for service is not a resident or occupant of the premises being served; or (7-1-93)()

c. Premises where service is being provided on an interim basis to a resident or occupant following a customer's request to terminate service. ()

2004 - State Affairs House Pending Rule (Yellow)

PUBLIC UTILITIES COMMISSION The Utility Customer Relations Rules

Docket No. 31-2101-0301
Proposed Rulemaking

02. ~~Seven-Day Delivery And Contents Of Notice To Occupants Or Residents.~~ The utility must notify the residents or occupants of its intent to deny or terminate service at least ~~seven~~ two (72) calendar days, excluding weekends and holidays, before the proposed date of termination. The notice should be delivered to the premises or, in the case of multi-occupant buildings or mobile home parks, posted in common areas or a conspicuous location. The notice shall state: ~~(7-1-93)()~~

a. The date of the notice; (7-1-93)

b. The proposed denial or termination date; ~~(7-1-93)()~~

c. The ~~amount due for the most recent billing period~~ reason for denial or termination; ~~and~~ ~~(7-1-93)()~~

d. ~~That~~ What action(s) the resident(s) or occupant(s) ~~can negotiate directly with the utility to purchase future service at that location~~ must take in order to obtain or retain service in the resident's(s') or occupant's(s') own name(s)-; and ~~(7-1-93)()~~

e. That an informal or formal complaint concerning denial or termination of service may be filed with this Commission. ()

(BREAK IN CONTINUITY OF SECTIONS)

603. REQUIREMENTS FOR AND CONTENTS OF NOTICE BEFORE TERMINATION OF SERVICE (Rule 603).

01. ~~Seven-Day Initial~~ Notice. If the utility intends to terminate service under Rule ~~6-1~~ 601, the utility shall send to the customer written notice of termination mailed at least seven (7) calendar days prior to the proposed date of termination. ~~(7-1-93)()~~

02. ~~Contents Of A~~ Notice. The written notice of termination shall state: ~~(7-1-93)()~~

a. The reason(s), citing these rules, why service will be terminated, and the proposed date of termination; ~~(7-1-93)()~~

b. Actions the customer may take to avoid termination; (7-1-93)

c. That an informal or formal complaint concerning the termination may be filed with this Commission; and (7-1-93)

d. That service will not be terminated prior to the resolution of such a filed complaint (if the resolution is in favor of the utility, the Commission shall set the date of termination). (7-1-93)

03. ~~Twenty-Four-Hour Final~~ Notice. The utility may mail a final written notice to customers at least three (3) calendar days, excluding weekends and holidays, before the proposed date of termination. Regardless of whether the utility elects to mail a written notice, At least twenty-four (24) hours prior to actual termination, the utility shall diligently attempt to contact the customer affected, either in person or by telephone, to apprise the customer of the proposed action. This ~~oral~~ final notice shall contain the same information required above for written notice. Each utility shall maintain clear, written records of ~~these~~ oral notices, showing dates and the utility employee giving the notices. ~~(7-1-93)()~~

2004 - State Affairs House Pending Rule (Yellow)

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.71.03 - RAILROAD SAFETY/SANITATION RULES

DOCKET NO. 31-7103-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Idaho Public Utilities Commission and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Commission has adopted a pending rule. The action is authorized pursuant to Sections 61-113 and 61-515, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule.

The pending rule is being adopted as proposed. No public comments were received in response to the proposed rule. The original text of the proposed rule was published in the September 3, 2003 Idaho Administrative Bulletin, Volume 03-9, pages 207 and 208.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, (208) 334-0312.

DATED this 30th day of September, 2003.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St. (83702-5983)
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
FAX: (208) 334-3762

IDAPA 31, TITLE 71, CHAPTER 03

RAILROAD SAFETY/SANITATION RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 207 and 208.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - State Affairs House Pending Rule (Yellow)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.71.03 - RAILROAD SAFETY/SANITATION RULES

DOCKET NO. 31-7103-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given of the Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-515 and 61-113, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, political subdivision, or an agency, no later than September 17, 2003. The hearing site will be accessible to persons with disabilities. Requests for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In March 2003, the U.S. Department of Transportation in conjunction with the Department of Homeland Security issued new rules to enhance the security of hazardous materials transported by railroads. The amended safety rules (to be codified in scattered sections in 49 C.F.R. Part 172) require shippers of hazardous materials and railroads to develop and implement security plans. 68 Fed. Reg. 14510 (March 25, 2003). Briefly, security plans are to address risk assessments, personnel security, unauthorized access to materials, and in-route transportation safety. In addition, the federal rules require shippers and transporters of hazardous materials to provide security awareness training to their employees. The Commission proposed to adopt these new safety rules by incorporation.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because the proposed rule merely adopts existing federal safety regulations applicable to shippers and transporters of hazardous materials by rail.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General at (208) 334-0312.

Anyone may submit written comments regarding these proposed rules. All written comments concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before September 24, 2003.

DATED at Boise, Idaho this 25th day of July, 2003.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:
472 W Washington
Boise, Idaho 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-7103-0301

2004 - State Affairs House Pending Rule (Yellow)

103. TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL (Rule 103).

01. Hazardous Material Defined. “Hazardous material” means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated by the Secretary of Transportation. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials as defined in 49 C.F.R. Section 171.8, materials designated as hazardous under the provisions of 49 C.F.R. Section 172.101, and materials that meet the defining criteria for hazardous classes and divisions in 49 C.F.R. Part 173. (3-30-01)

02. Adoption Of Federal Safety Regulations. The Commission hereby adopts by reference 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179, and 180 (October 1, 2000~~3~~). All customers offering hazardous materials for shipment by rail and all railroads operating in Idaho that transport hazardous materials listed in, defined by, or regulated by the adopted federal safety regulations must comply with 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179 and 180. (~~3-30-01~~)()

03. Recognition Of Federal Exemptions. Whenever a railroad or shipper has applied to a federal agency and has been granted an exemption from the transportation or packaging requirements of the federal safety regulations adopted in Subsection 103.02, the federal exemption will also be recognized under these rules. The Commission shall not administer a program to duplicate consideration or approval of federal exemptions on a state level. (3-30-01)

2004 - State Affairs House Pending Rule (Yellow)

IDAPA 34 - SECRETARY OF STATE

34.02.02 - RULES GOVERNING COMPLAINT PROCESS UNDER THE HELP AMERICA VOTE ACT

DOCKET NO. 34-0202-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Secretary of State and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule will become final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by the concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, notice is hereby given that the Secretary of State has adopted a pending rule. The action is authorized pursuant to Sections 34-216, Idaho Code, and 42 U.S. Section 15512.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule:

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 490 through 495.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Fred C. Goodenough at (208) 332-2862.

Dated this 19th day of November, 2003.

Fred C. Goodenough
Deputy Secretary of State
Commercial Division
700 West Jefferson St.
P.O. Box 83720
Boise, Idaho 83720

IDAPA 34, TITLE 02, CHAPTER 02

RULES GOVERNING COMPLAINT PROCESS UNDER THE HELP AMERICA VOTE ACT

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 490 through 495.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - State Affairs House Pending Rule (Yellow)

IDAPA 34 - SECRETARY OF STATE

34.02.02 - RULES GOVERNING COMPLAINT PROCESS UNDER THE HELP AMERICA VOTE ACT

DOCKET NO. 34-0202-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Secretary of State has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 34-216, Idaho Code and 42 U.S. Section 15512.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Federal law, 42 U.S.C. Section 15512, requires each state to have a complaint process in place as a precondition for receiving funds under the Help America Vote Act (HAVA), 42 U. S. C. Section 15481, et seq. The complaint process permits anyone believing that a violation of HAVA has occurred to file a written, notarized, and sworn complaint setting forth the perceived violation. Complaints may be consolidated and a hearing may be held if requested. A determination should be made within 90 days, and the State will provide a remedy if there is a violation. Alternative Dispute Resolution procedures will be used if the 90-day deadline is not met.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), (b), and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rules confer a benefit, are necessary in order to comply with HAVA, and have a role in protecting the public welfare.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fees are imposed or increased under these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the rule, the lack of identifiable representatives of affected interests and the necessity for a temporary rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Fred C. Goodenough at (208) 332-2862.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 20th day of August, 2003.

Fred C. Goodenough
Deputy Secretary of State
Commercial Division
700 West Jefferson St.
P.O. Box 83720
Boise, Idaho 83720

2004 - State Affairs House Pending Rule (Yellow)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0202-0301

IDAPA 34
TITLE 02
CHAPTER 02

34.02.02 - RULES GOVERNING COMPLAINT PROCESS
UNDER THE HELP AMERICA VOTE ACT

000. LEGAL AUTHORITY.

This chapter is promulgated pursuant to Section 34-216, Idaho Code, and 42 U.S.C. Section 15512. Federal law requires the Secretary of State to establish an administrative complaint procedure to remedy grievances under the Help America Vote Act, 42 U.S.C. Section 15481, et seq. (10-1-03)T

001. TITLE AND SCOPE.

01. Title. The rules in this chapter shall be known as IDAPA 34.02.02, "Rules Governing Complaint Process Under the Help America Vote Act," and may be cited as IDAPA 34.02.02. (10-1-03)T

02. Scope. This chapter provides a uniform, nondiscriminatory procedure for the resolution of any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002, 42 United States Code Sections 15481, et seq., including a violation that has occurred, is occurring, or is about to occur. The procedure set out in this chapter does not apply to an election recount under Sections 34-2301 et seq., Idaho Code, or to an election contest under Sections 34-2001 et seq., and 34-2101 et seq, Idaho Code. A Complainant who wishes to challenge the validity of any primary, general or special election, or to determine the validity of any ballot or vote must seek relief as otherwise provided by law. (10-1-03)T

002. WRITTEN INTERPRETATIONS.

Written Interpretations of this chapter are available by mail from the Idaho Secretary of State. (10-1-03)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals are not available within the Secretary of State's Office. (10-1-03)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into this Chapter. (10-1-03)T

005. CONTACT INFORMATION.

Office of Secretary of State, 8 a.m. - 5 p.m. Monday through Friday, 700 W. Jefferson, Rm. 203, Boise, Idaho. The mailing address is P.O. Box 83720, Boise, ID 83720-0080. The Election Division telephone number is (208) 334-2852 and the facsimile machine is (208) 334-2282. (10-1-03)T

006. PUBLIC RECORDS ACT COMPLIANCE.

This chapter and its contents are subject to the Idaho Public Records Law. (10-1-03)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

In this chapter, the following terms have the meanings indicated. (10-1-03)T

01. Complainant. Means the person who files a complaint with the Secretary of State under this rule;

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(10-1-03)T

02. Respondent. Means any State or County election official whose actions are asserted, in a complaint under this subtitle, to be in violation of Title III; (10-1-03)T

03. Title III. Means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code Sections 15481-15485. (10-1-03)T

011. WHO MAY FILE.
Any person who believes that there is a violation of any provision of Title III may file a complaint. (10-1-03)T

012. FORM OF COMPLAINT.

01. Writing And Notarization. A complaint shall be in writing and notarized, signed and sworn under oath by the Complainant. The complaint must identify the Complainant by name and mailing address. The complaint must identify the section of Title III for which a violation is alleged. The complaint must set out a clear and concise description of the claimed violation that is sufficiently detailed to apprise both the Respondent and the hearing officer or arbitrator of the claimed violation. The complaint procedure is limited to allegations of violations of Title III in a federal election. (10-1-03)T

02. Prescribed Or Other Form. The Complainant may use: (10-1-03)T

a. The form prescribed by the Idaho Secretary of State, which is available from the Idaho Secretary of State Election Division, or which may be downloaded from the Idaho Secretary of State Election Division's website found at www.idsos.state.id.us/elect/eleindex.htm; or (10-1-03)T

b. Any other form satisfying the requirements of Subsection 012.02.a. of this rule. (10-1-03)T

013. PLACE AND TIME FOR FILING, COPY FOR RESPONDENT.

01. Place For Filing. A complaint shall be filed with the Election Division, along with adequate proof of mailing or delivery of a copy of the complaint to each Respondent. (10-1-03)T

02. Time For Filing. A complaint may be filed no later than ninety (90) days after the final certification of the federal election and at issue. A complaint may be filed anytime prior to an election. (10-1-03)T

03. Copy For Respondent. The Complainant shall mail or deliver a copy of the complaint to each Respondent. (10-1-03)T

04. Rejection Of Complaint. The Election Division shall examine each complaint, and may reject it for filing if: (10-1-03)T

a. It is not signed and notarized under oath; (10-1-03)T

b. It does not identify the Complainant or include an adequate mailing address; (10-1-03)T

c. Does not, on its face, allege a violation of Title III with regard to a federal election; or (10-1-03)T

d. More than ninety (90) days have elapsed since the final certification of the federal election at issue. (10-1-03)T

014. PROCESSING OF COMPLAINT.

01. Consolidation. The Secretary of State may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact. (10-1-03)T

02. Preparing The Complaint For Determination. The Secretary of State shall take all necessary

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steps to prepare the complaint for determination under these rules. In the course of preparing the complaint for determination, the Secretary of State shall allow a party to proceed with the assistance of an English language interpreter if the Complainant is unable to proceed without assistance of an interpreter. It is the responsibility of the party who needs an interpreter to secure the services of the interpreter. The Secretary of State, in coordination with the parties, shall establish a schedule under which the Complainant and Respondent may file written submissions concerning the complaint, and under which the complaint shall be finally determined. (10-1-03)T

03. Record. (10-1-03)T

a. The Secretary of State shall compile and maintain an official record in connection with each complaint under this rule; (10-1-03)T

b. The official record shall contain: (10-1-03)T

i. A copy of the complaint including any amendments made with the permission of the Secretary of State; (10-1-03)T

ii. A copy of any written submission by the Complainant; (10-1-03)T

iii. A copy of any written response by any Respondent or other interested person; (10-1-03)T

iv. A written report of any investigation conducted by employees of the Secretary of State or Office of Attorney General who shall not be directly involved in the actions or events complained of, and shall not directly supervise or be directly supervised by any Respondent; (10-1-03)T

v. Copies of all notices and correspondence to or from the Secretary of State in connection with the complaint; (10-1-03)T

vi. Originals or copies of any tangible evidence produced at any hearing conducted under Section 015; (10-1-03)T

vii. The original tape recording produced at any hearing conducted under Subsection 015.07 of these rules, and a copy of any transcript obtained by any board or other party; and (10-1-03)T

viii. A copy of any final determination made under Sections 016 or 017. (10-1-03)T

015. HEARING.

01. Hearing On The Record. At the request of the Complainant, the Secretary of State shall conduct a hearing on the record. (10-1-03)T

02. Time Frame For Hearing. The hearing shall be conducted no sooner than ten (10) days and no later than thirty (30) days after the Secretary of State receives the complaint. The Secretary of State shall give at least ten (10) business days' advance notice of the date, time, and place of the hearing: (10-1-03)T

a. By mail, to the Complainant, each named Respondent, and any other interested person who has asked in writing to be advised of the hearing; (10-1-03)T

b, On the Election Division web site; and (10-1-03)T

c. By posting in a prominent place, available to the general public, at the offices of the Election Division; (10-1-03)T

03. Hearing Officer. The Secretary of State or his designee shall act as hearing officer. (10-1-03)T

04. Who May Appear. The Complainant, any Respondent, or any other interested member of the public may appear at the hearing and testify or present tangible evidence in connection with the complaint. Each

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witness shall be sworn. The hearing officer may limit the testimony, if necessary, to ensure that all interested participants are able to present their views. The hearing officer may recess the hearing and reconvene at a later date, time, and place announced publicly at the hearing. (10-1-03)T

05. Representation By An Attorney Not Necessary. A Complainant, Respondent, or other person who testifies or presents evidence at the hearing may, but need not be, represented by an attorney. (10-1-03)T

06. Written Presentation. If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence subsequently presented, that person is not entitled to be heard again, but may make a written presentation to the hearing officer. (10-1-03)T

07. Tape Recording Of Proceedings. The proceedings shall be tape-recorded by and at the expense of the Election Division. The recording shall not be transcribed as a matter of course, but the Election Division, or any party may obtain a transcript at its own expense. If a party obtains a transcript, the party shall file a copy as part of the record, and any other interested person may examine the record copy. (10-1-03)T

08. Filing Of Written Brief Or Memorandum. Any party to the proceedings may file a written brief or memorandum within five (5) business days after the conclusion of the hearing. No responsive or reply memoranda will be accepted except with the specific authorization of the hearing officer. (10-1-03)T

016. FINAL DETERMINATION.

01. If No Hearing Is Held. If there has been no hearing under Section 015, the Secretary of State or his designee shall review the record and determine whether, under a preponderance of the evidence standard, a violation of Title III has been established. (10-1-03)T

02. Determination Of Violation. At the conclusion of any hearing under Section 015, the hearing officer shall determine, under a preponderance of the evidence standard, whether a violation of Title III has been established. (10-1-03)T

03. Form of Determination. (10-1-03)T

a. If the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has occurred, the Secretary of State shall provide the appropriate remedy. The remedy shall be directed to the improvement of processes or procedures governed by Title III. The remedy so provided may include an order to any Respondent, commanding the Respondent to take specified action, or prohibiting the Respondent from taking specified action, with respect to a past or future election; however, the remedy may not include an award of money damages or attorney's fees. The remedy may not include the denial of certification or the invalidation of any primary, general or special election, or a determination of the validity of any ballot or vote. Remedies addressing the certification of an election, the validity of an election, or of any ballot or vote may be obtained only as otherwise provided by law; (10-1-03)T

b. If the complaint is not timely or not in proper form, or if the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has not occurred, or that there is not sufficient evidence to establish a violation, the Secretary of State shall dismiss the complaint; (10-1-03)T

04. Explanation In Written Decision. The Secretary of State or his designee shall explain in a written decision the reasons for the determination and for any remedy selected. (10-1-03)T

05. Issuance Of Final Decision. Except as specified in Section 017, the final determination of the Secretary of State shall be issued within ninety (90) days after the complaint was filed, unless the Complainant consents in writing to an extension. The final determination shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final determination. It shall also be published on the Division's website and made available on request to any interested person. If the Secretary of State cannot make a final determination within ninety (90) days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be referred for final resolution under Section 017. The record complied under Section 014 of this rule shall be made available for use under Section 017. (10-1-03)T

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017. ALTERNATE DISPUTE RESOLUTION.

If, for any reason, the Secretary of State or his designee does not render a final determination within ninety (90) days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be resolved under this Section 017. (10-1-03)T

01. Time Frames For Choosing And Arbitrator. On or before the fifth business day after a final determination by the Secretary of State was due, the Secretary of State shall designate in writing to the Complainant a list of names of arbitrators who may resolve the complaint. Within three (3) business days after the Complainant receives this designation, the Complainant and the Secretary of State shall arrange to choose an arbitrator from this list by striking names from the list until an arbitrator acceptable to both parties is chosen. Within three (3) business days after the parties strike names, the Secretary of State shall contact the arbitrator chosen and arrange for the hearing by the arbitrator. (10-1-03)T

02. Information The Arbitrator May Review. The arbitrator may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence. In exceptional cases, the arbitrator may request that the parties present additional briefs or memoranda. (10-1-03)T

03. Resolution Of Complaint. The arbitrator shall determine the appropriate resolution of the complaint as set out in these rules. (10-1-03)T

04. Issuance Of Written Resolution. The arbitrator must issue a written resolution within sixty (60) days after the final determination of the Secretary of State was due under Section 016. This sixty (60) day period may not be extended. The final resolution of the arbitrator shall be transmitted to the Secretary of State and shall be the final resolution of the complaint. The final resolution shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final resolution. It shall be published on the Election Division website and made available on request to any interested person. (10-1-03)T

018. -- 999. (RESERVED).

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IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR

44.01.01 - RULES OF THE ADMINISTRATIVE RULES COORDINATOR

DOCKET NO. 44-0101-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5206, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as proposed. The complete text of the proposed rule was published in the July 2, 2003 Idaho Administrative Bulletin, Volume 03-7, pages 77 through 79.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dennis Stevenson, Assistant Administrative Rules Coordinator, at (208) 332-1822.

DATED this 23rd day of September, 2003.

Rick Thompson
Administrative Rules Coordinator
Office of Administrative Rules
650 W. State St., Room 100
P. O. Box 83720
Boise, ID 83720-0306
Phone: (208) 332-1820
Fax: (208) 332-1896

IDAPA 44, TITLE 01, CHAPTER 01

RULES OF THE ADMINISTRATIVE RULES COORDINATOR

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 77 through 79.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR

44.01.01 - RULES OF THE ADMINISTRATIVE RULES COORDINATOR

DOCKET NO. 44-0101-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5205, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2003.

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking deletes references to hard copy publications and individually bound volumes and books and would allow the Office of the Administrative Rules Coordinator to publish all statutorily required documents in an electronic format that would be recognized as official documents. This allows for an alternative method of publishing official documents to the current method of publishing bound sets of books that make up the Idaho Administrative Code and Administrative Bulletin. This action would result in a substantial cost savings to the State. This rule change would affect only the publication of the Administrative Code at this time. The Bulletin will be published as usual.

Although it is not part of IDAPA 44.01.01, the Bulletin publication schedule that is published in the preface of each Bulletin is being amended. The agency filing date for submission of rulemakings to the Coordinator's Office is being changed to allow agencies more time to complete and file rulemakings. This change will not affect the public.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rulemaking confers a benefit to the public by allowing the Coordinator's Office to implement cost saving measures requested by the Governor.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because of the nature of the changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Dennis Stevenson, Assistant Administrative Rules Coordinator, at (208) 332-1822.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 28th day of May, 2003.

Rick Thompson
Administrative Rules Coordinator
Office of Administrative Rules
650 W. State St., Room 100
P. O. Box 83720, Boise, ID 83720-0306
Phone: (208) 332-1820 / Fax: (208) 332-1896

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 44-0101-0301

051. AGENCY PAYMENT FOR RULEMAKING.

The coordinator is authorized to allocate costs of publication and distribution to each participating agency on a per page basis. (7-1-93)

01. Less Than A Full Page. The cost per page may be imposed even though less than a full page of publication is required. (7-1-97)

02. Cost To Agencies For Code Publication. Pursuant to Section 67-5205(4), Idaho Code, the fee for rules of each agency contained in the Code billed to the respective agency shall not exceed fifty-six dollars (\$56) for each page of the Code. The fee shall be calculated based on actual pages published by the coordinator for each agency within the official copy of the Code. The cost allocations to each participating agency shall coincide with the annual publication of the Code and each agency shall promptly pay into the Administrative Code account such costs. (7-1-97)(7-1-03)T

03. Cost To Agencies For Bulletin Publication. Pursuant to Section 67-5205(4), Idaho Code, the fee for rules of each agency contained in the Bulletin billed to the respective agency shall not exceed sixty-one dollars (\$61) for each page per publication event. This fee shall be calculated based on actual pages published by the coordinator for each agency within the official copy of the Bulletin. The cost allocations to each participating agency shall be made monthly by the coordinator, and each participating agency shall promptly pay into the administrative code account such costs. (7-1-97)(7-1-03)T

052. COSTS OF DOCUMENTS PUBLICATIONS.

The coordinator is authorized to charge for copies of all APA-related ~~documents~~ publications. (7-1-93)(7-1-03)T

01. Cost Of Individual Rule Chapters. The prices to be charged for chapters of rules or portions thereof shall not exceed the larger of five dollars (\$5), or ten cents (\$.10) per page. (7-1-97)

02. Cost Of Certified Rules. Certified rules shall be provided without charge and shall include an affidavit of certification, notarized by the coordinator, and a copy of specific rules in effect on a specific date after July 1, 1993. (7-1-97)

03. Cost Of The Administrative Bulletin. The prices to be charged for ~~twelve (12) individually bound volumes of~~ the Bulletin in the form of an annual subscription shall not exceed three hundred dollars (\$300) per year. The price for individual, monthly issues, which are subject to availability, shall not exceed the larger of thirty dollars (\$30) per volume or ten cents (\$.10) per page, plus sales tax, if applicable. (7-1-99)(7-1-03)T

04. Cost Of The Administrative Code. The prices to be charged for ~~a set of~~ the Administrative Code in the form of an annual subscription shall not exceed three hundred and fifty dollars (\$350) plus sales tax, if applicable, per year. Individual copies of the Administrative Code may be purchased but are subject to availability. The cost per volume shall not exceed seventy-five dollars (\$75). (7-1-99)(7-1-03)T

05. Free Distribution Of ~~Hard-Copy Documents~~ Publications. In accordance with Section 67-5205(2), Idaho Code, the coordinator shall distribute copies free of charge as follows: (7-1-97)(7-1-03)T

- a. One (1) to each county clerk for the use of the county law library. (7-1-93)
- b. One (1) each to the senate and the house of representatives. (7-1-93)
- c. One (1) to the attorney general. (7-1-93)
- d. One (1) to the legislative council. (7-1-93)

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- e. One (1) each to the state universities and colleges, and one (1) to each community college. (7-1-93)
 - f. One (1) to the state law library. (7-1-93)
 - g. One (1) to the state library. (7-1-93)
 - h. One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, Albertson College Library, Ricks College Library, Northwest Nazarene College Library and Twin Falls Public Library. (9-7-94)
- 06. Other Free ~~Documents~~ Publications.** The coordinator may distribute free copies for official use and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. ~~(7-1-93)~~(7-1-03)T

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